

ASSEMBLY BILL

No. 1431

Introduced by Assembly Member Saldana

February 22, 2005

An act to amend Sections 8494, 8495, and 8841 of the Fish and Game Code, relating to fishing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1431, as introduced, Saldana. Fishing: trawl gear: prawns and pink shrimp.

(1) Existing law generally permits the use of trawl nets, as defined, for the taking of fish and other marine life, except as otherwise prohibited for specific species or in various areas of the state. Existing law specifically authorizes the taking of shrimps and prawns by use of a trawl net under a permit issued by the Department of Fish and Game.

Existing law requires, commencing April 1, 2006, any vessel using bottom trawl gear in state-managed halibut fisheries to possess a halibut bottom trawl permit issued by the department that authorizes the use of trawl gear by that vessel for the take of California halibut. Existing law requires, commencing with the 2006 permit year, a halibut bottom trawl vessel permit to be issued annually, and commencing with the 2007–08 season, requires an applicant to have previously held a valid California halibut bottom trawl vessel permit.

Existing law prohibits the department from issuing a bottom trawl vessel permit for use in the halibut fishery unless that vessel has landed a minimum of 200 pounds of California halibut and reported that landing on fish tickets as being caught with bottom trawl gear within a specified timeframe. Existing law authorizes those permits to be transferred in certain circumstances. Existing law makes all these

provisions inoperative upon the adoption by the commission of a halibut fishery management plan, as specified.

This bill would change to July 1, 2006, the operative date of the requirement that any vessel using bottom trawl gear in state-managed halibut fisheries possess a halibut bottom trawl permit issued by the department. The bill would delete a request for transfer because of the death or permanent disability of the permitholder, or because of the decision of the permitholder to retire from fishing upon reaching or exceeding the age of 65, from the circumstances under which the transfer of these permits is authorized.

(2) Existing law designates the ocean waters lying between one and 3 nautical miles from the mainland shore lying south and east of a line running due west (270° true) from Point Arguello and north and west of a line running due south (180° true) from Point Mugu as the California halibut trawl grounds.

Existing law prohibits any trawl net that exceeds a certain entrance size, wing panel length, mesh size, or that uses trawl doors that exceed a certain weight from being used in the California halibut trawl grounds.

This bill would delete the specific entrance size, wing panel length, mesh size, and trawl door weight standards from this provision, and would instead authorize the commission to determine size, weight, and configuration of all parts of the trawl gear, including, but not limited to, net, mesh, doors, appurtenances, and towing equipment as it determines is necessary to ensure trawl gear is used in a sustainable manner within the California halibut trawl grounds.

(3) Existing law grants the Fish and Game Commission authority over all state-managed bottom trawl fisheries not managed under a federal or state fishery management plan, and over other types of gear targeting the same species as those fisheries. Existing law subjects every commercial bottom trawl vessel issued a state permit to the requirements and policies of the federal groundfish observer program. Existing law prohibits the commission from authorizing additional fishing areas for bottom trawls, unless the commission determines that adequate evidence establishes that additional fishing areas are sustainable, do not harm bottom habitat, and do not reasonably conflict with other users.

Existing law prohibits the use of roller gear more than 8 inches in diameter, and commencing April 1, 2006, makes it unlawful to fish commercially for prawns or pink shrimp, unless an approved bycatch

reduction device is used with each net. Existing law specifies that a rigid grate fish excluder device is the approved type of bycatch reduction device, unless the commission, the Pacific Fishery Management Council, or the National Marine Fisheries Service determines that a different type of fish excluder device has an equal or greater effectiveness in reducing bycatch.

This bill would instead require that the bycatch reduction device be approved by the commission or, if the commission does not approve a bycatch reduction device prior to April 1, 2006, that a device approved by the Pacific Fishery Management Council or the National Marine Fisheries Service be deemed approved by the commission.

(4) Existing law makes a violation of the Fish and Game Code a misdemeanor punishable by fine, imprisonment, or both.

This bill would impose a state-mandated local program by creating new crimes for a violation of its provisions.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8494 of the Fish and Game Code is
2 amended to read:

3 8494. (a) Commencing ~~April~~ July 1, 2006, any vessel using
4 bottom trawl gear in state-managed halibut fisheries, as described
5 in subdivision (a) of Section 8841, shall possess a halibut bottom
6 trawl permit issued by the department that authorizes the use of
7 trawl gear by that vessel for the take of California halibut. An
8 application for a California halibut bottom trawl vessel permit for
9 the 2006–07 season shall be received by the department not later
10 than January 1, 2006.

11 (b) A halibut bottom trawl vessel permit shall be issued
12 annually, commencing with the 2006 permit year. Commencing
13 with the 2007-08 season, in order to be eligible for that permit,

1 an applicant shall have previously held a valid California halibut
2 bottom trawl vessel permit.

3 (c) The department shall not issue a bottom trawl vessel permit
4 pursuant to this section for use in the halibut fishery unless that
5 vessel has landed a minimum of 200 pounds of California halibut
6 and reported that landing on fish tickets as being caught with
7 bottom trawl gear in at least one of the following:

8 (1) At least two of the calendar years 1995 to 2003, inclusive.

9 (2) At least one of the calendar years 1995 to 2003, inclusive,
10 and from January 1, 2004, to February 19, 2004, inclusive.

11 (d) Permits issued pursuant this section may be transferred
12 only if at least one of the following occur:

13 (1) The commission adopts a restricted access program for the
14 fishery, including, but not limited to, if necessary, a plan for
15 reducing capacity in this fishery in a manner that is consistent
16 with the commission's policies regarding restricted access to
17 commercial fisheries.

18 (2) Prior to the implementation of a restricted access program,
19 the permit is transferred to another vessel owned by the same
20 permitholder of equal or less capacity, as determined by the
21 department based on the United States Coast Guard
22 documentation papers, and if the originally permitted vessel was
23 lost, stolen, destroyed, or suffered a major irreparable mechanical
24 breakdown. The department may not issue a permit for a
25 replacement vessel if the department determines that the
26 originally permitted vessel was fraudulently reported as lost,
27 stolen, destroyed, or damaged. Only the permitholder at the time
28 of the loss, theft, destruction, or irreparable mechanical
29 breakdown of a vessel may apply to transfer the vessel permit.
30 Evidence that a vessel is lost, stolen, or destroyed shall be in the
31 form of a copy of the report filed with the United States Coast
32 Guard, or any other law enforcement agency or fire department
33 that conducted an investigation of the loss.

34 ~~(3) Prior to the implementation of a halibut trawl restricted~~
35 ~~access program, a vessel permitholder, or his or her heirs or~~
36 ~~assigns, requests to transfer the permit because of the death or~~
37 ~~permanent disability of the permitholder or the decision by the~~
38 ~~permitholder to retire from fishing upon reaching or exceeding~~
39 ~~age 65, and halibut landings contributed significantly to the catch~~
40 ~~record and economic income derived from the vessel, and the~~

~~permit is authorized by the department to be transferred with the vessel. The department may request information that it determines is reasonably necessary from the permit holder or his or her heirs and assigns for the purpose of verifying statements in the request prior to authorizing the transfer of the permit.~~

(e) The commission shall establish California halibut bottom trawl vessel permit fees based on the recommendations of the department and utilizing the guidelines outlined in subdivision (b) of Section 711 to cover the costs of administering this section. Prior to the adoption of a restricted access program pursuant to subdivision (d), fees may not exceed one thousand dollars (\$1,000) per permit.

(f) Individuals holding a federal groundfish trawl permit may retain and land up to 150 pounds of California halibut per trip without a California halibut trawl permit in accordance with federal and state regulations, including, but not limited to, regulations developed under a halibut fishery management plan.

(g) This section shall become inoperative upon the adoption by the commission of a halibut fishery management plan in accordance with the requirements of Part 1.7 (commencing with Section 7050).

SEC. 2. Section 8495 of the Fish and Game Code is amended to read:

8495. (a) The following area is designated as the California halibut trawl grounds:

The ocean waters lying between one and three nautical miles from the mainland shore lying south and east of a line running due west (270° true) from Point Arguello and north and west of a line running due south (180° true) from Point Mugu.

(b) Notwithstanding the provisions of subdivision (a), the use of trawl gear for the take of fish is prohibited in the following areas of the California halibut trawl grounds:

(1) Around Point Arguello. The area from a line extending from Point Arguello true west (270°) and out three miles, to a line extending from Rocky Point true south (180°) and out three miles.

(2) Around Point Conception. From a point on land approximately one-half mile north of Point Conception at latitude 34° 27.5' extending seaward true west (270°) from one to three miles, to a point on land approximately ½ mile east of Point

1 Conception at longitude 120° 27.5' extending seaward true south
2 (180°) from one to three miles.

3 (3) In the Hueneme Canyon in that portion demarked by the
4 IMO Vessel Traffic safety zone on NOAA/NOS Chart 18725 and
5 from one mile to the three mile limit of state waters.

6 (4) In Mugu Canyon, from Laguna point, a line extending true
7 south (180°) and out three miles, to Point Mugu, a line extending
8 true south (180°) and from one to three miles.

9 (c) (1) Notwithstanding the provisions of subdivision (a),
10 commencing April 1, 2008, the following areas in the California
11 halibut trawl grounds shall be closed to trawling, unless the
12 commission finds that a bottom trawl fishery for halibut
13 minimizes bycatch, is likely not damaging seafloor habitat, is not
14 adversely affecting ecosystem health, and is not impeding
15 reasonable restoration of kelp, coral, or other biogenic habitats:

16 (A) The ocean waters lying between one and three nautical
17 miles from the mainland shore from a point east of a line
18 extending seaward true south (180°) from a point on land
19 approximately ½ mile east of Point Conception at longitude 120°
20 27.5' to a line extending due south from Gaviota.

21 (B) The ocean waters lying between one and two nautical
22 miles from the mainland shore lying east of a line extending due
23 south from Santa Barbara Point (180°) and west of a line
24 extending due south from Pitas Point (180°).

25 (C) Except as provided in subdivision (b), the ocean waters
26 lying between one and three nautical miles from the mainland
27 shore lying south and east of a line running due west (270° true)
28 from Point Arguello to a line extending seaward true south
29 (180°) from a point on land approximately ½ mile east of Point
30 Conception at longitude 120° 27.5', and from the western border
31 of the IMO Vessel Traffic safety zone on NOAA/NOS Chart
32 18725 in Hueneme Canyon running south and east to a line
33 running due south (180° true) from Point Mugu.

34 (2) In making the finding described in paragraph (1), the
35 commission shall pay special attention to areas where kelp and
36 other biogenic habitats existed and where restoring such habitats
37 is reasonably feasible, and to hard bottom areas and other
38 substrate that may be particularly sensitive to bottom trawl
39 impacts.

(d) Commencing January 1, 2008, the commission shall review information every three years from the federal groundfish observer program and other available research and monitoring information it determines relevant, and shall close any areas in the California halibut trawl grounds where it finds that the use of trawl gear does not minimize bycatch, is likely damaging seafloor habitat, is adversely affecting ecosystem health, or impedes reasonable restoration of kelp, coral, or other biogenic habitats. The commission shall pay special attention to areas where kelp and other biogenic habitats existed and where restoring those habitats is reasonably feasible, and to hard bottom areas and other substrate that may be particularly sensitive to bottom trawl impacts in making that finding.

(e) ~~Notwithstanding any other provision of law, no trawl net shall be used in the California halibut trawl grounds with an entrance greater than 60 feet across and 6 feet in height, with wing panels that exceed 100 feet in length, that utilize less than 5 inch mesh in the body of the net and less than 7½ inch mesh in the cod end of the net, or that uses any trawl doors on the net that exceed 500 pounds in weight. The commission may order modifications in net and mesh size the commission shall determine the size, weight, and configuration of all parts of the trawl gear, including, but not limited to, net, mesh, doors, appurtenances, and towing equipment as it determines is necessary to assure ensure trawl gear is used in a sustainable manner within the California halibut trawl grounds.~~

SEC. 3. Section 8841 of the Fish and Game Code is amended to read:

8841. (a) The commission is hereby granted authority over all state-managed bottom trawl fisheries not managed under a federal fishery management plan pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq.) or a state fishery management plan pursuant to the Marine Life Management Act (Chapter 1052 of the Statutes of 1998), to ensure that resources are sustainably managed, to protect the health of ecosystems, and to provide for an orderly transition to sustainable gear types in situations where bottom trawling may not be compatible with these goals.

(b) The commission is hereby granted authority to manage all of the fisheries described in subdivision (a) in a manner that is

1 consistent with the requirements of this section and in accordance
2 with the requirements of Part 1.7 (commencing with Section
3 7050), including, but not limited to, the following:

- 4 (1) California halibut.
- 5 (2) Sea cucumber.
- 6 (3) Ridge-back, spot, and golden prawn.
- 7 (4) Pink shrimp.

8 (c) The commission is also granted authority over other types
9 of gear targeting the same species as the bottom trawl fisheries
10 referenced in subdivision (a) to manage in a manner that is
11 consistent with the requirements of Part 1.7 (commencing with
12 Section 7050).

13 (d) Every commercial bottom trawl vessel issued a state
14 permit is subject to the requirements and policies of the federal
15 groundfish observer program (50 C.F.R. 660.360).

16 (e) The commission may not authorize additional fishing areas
17 for bottom trawls, unless the commission determines that
18 adequate evidence establishes that additional fishing areas are
19 sustainable, do not harm bottom habitat, and do not reasonably
20 conflict with other users.

21 (f) It is unlawful to use roller gear more than eight inches in
22 diameter.

23 (g) Commencing April 1, 2006, it is unlawful to fish
24 commercially for prawns or pink shrimp, unless an approved
25 bycatch reduction device is used with each net. ~~For the purposes~~
26 ~~of this subdivision, a rigid grate fish excluder device is the~~
27 ~~approved type of bycatch reduction device, unless the~~
28 ~~commission, the Pacific Fishery Management Council, or the~~
29 ~~National Marine Fisheries Service determines that a different~~
30 ~~type of fish excluder device has an equal or greater effectiveness~~
31 ~~at reducing bycatch. If the commission does not approve a~~
32 ~~bycatch reduction device prior to April 1, 2006, then a device~~
33 ~~that is approved by the Pacific Marine Fishery Management~~
34 ~~Council or the National Marine Fisheries Service shall be~~
35 ~~deemed approved by the commission.~~

36 (h) Except as provided in Section 8495 or 8842, it is unlawful
37 to engage in bottom trawling in ocean waters of the state.

38 (i) This section does not apply to the use of trawl nets pursuant
39 to a scientific research permit.

1 (j) The commission shall facilitate the conversion of bottom
2 trawlers to gear that is more sustainable if the commission
3 determines that conversion will not contribute to overcapacity or
4 overfishing. The commission may participate in, and encourage
5 programs that support, conversion to low-impact gear or capacity
6 reduction by trawl fleets. The department may not issue new
7 permits to bottom trawlers to replace those retired through a
8 conversion program.

9 (k) As soon as practicable, but not later than May 1, 2005, the
10 commission and the department shall submit to the Pacific
11 Fishery Management Council and the National Marine Fisheries
12 Service a request for federal management measures for the pink
13 shrimp fishery that the commission and the department determine
14 are needed to reduce bycatch or protect habitat, to account for
15 uncertainty, or to otherwise ensure consistency with federal
16 groundfish management.

17 (l) No vessel may utilize bottom trawling gear without a state
18 or federal permit.

19 SEC. 4. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the
24 penalty for a crime or infraction, within the meaning of Section
25 17556 of the Government Code, or changes the definition of a
26 crime within the meaning of Section 6 of Article XIII B of the
27 California Constitution.